

REMARKS/ARGUMENTS

Claims 1-6, 8-16, 18, 20, 21, 23 and 27-34 remain in this application. Claims 7, 17, 19, 22, and 24-26 have been canceled.

Before proceeding with a substantive response to the most recent Office Action, Applicants hereby advise, pursuant to 37 C.F.R. §1.56, that the invention of claim 34 was not commonly owned with the invention of claims 1-33 at the time the invention of claims 1-33 was made. The invention of claim 34 was co-invented by applicants Lohrentz, Nickel, and Nolt prior to the invention of claims 1-33, which was co-invented at a later date by applicants Lohrentz and Nickel.

Claim 1 presently stands rejected under 35 U.S.C. §102(b) as being anticipated by Jennings 5,231,826. This rejection is respectfully traversed for the reasons which follow, particularly in view of the amendments made to claim 1.

Jennings discloses a windrow inverter in which previously severed crop material is picked up from the ground by pickup 15 and deposited upon a main cross conveyor 20. Cross conveyor 20 can be operated to deliver the material to a wing extension conveyor 30. Wing extension 30 is either stored in an upright, non-operating position as illustrated in solid lines in Fig. 1 or maintained in a horizontal operating position as illustrated in phantom lines in that same figure. In the horizontal position, the wing extension 30 is not angled upwardly. Furthermore, wing extension 30 is not comprised of driven rollers whose upper peripheries define a conveying surface. Instead, wing extension 30 utilizes a draper 32, similar to the draper 22 of cross conveyor 20. The inverter is not operable to sever crop materials from the ground, but instead can only pick up previously severed materials.

Claim 1 as filed called for a harvesting header that is "operable to sever crop materials from the ground." As above noted, the Jennings inverter has no ability to sever materials, but instead can only lift them from the ground using the pickup tines 16. Thus, on this basis alone, claim 1 as filed could not be anticipated by the Jennings reference.

Notwithstanding the foregoing differences, claim 1 has been amended to specify that the cross conveyor comprises a unique combination of a first conveyor portion that includes "an endless

belt", and a second conveyor portion that includes "a plurality of side-by-side, driven rollers extending transversely of the direction of material flow along the cross-conveyor to effectively present an upper conveying surface for the materials." As above noted, Jennings completely fails to show or suggest a cross conveyor of the claimed type.

Furthermore, none of the other references of record shows or suggests a unique cross conveyor as claimed in claim 1. Accordingly, it is respectfully submitted that the rejection of claim 1 should be withdrawn.

Claims 2-6 and 8 depend directly and indirectly from allowable claim 1 and set forth further details of the invention not shown or suggested by the art of record. Accordingly, it is respectfully submitted that these dependent claims are also in full condition for allowance.

Independent claim 9 presently stands rejected under 35 U.S.C. §102(b) as being anticipated by Jennings 5,231,826. The Office Action specifies "The fluffing takes place due to the faster speed or due to the elevation of ref 30a."

It is respectfully submitted that, contrary to the comments in the Office Action, the wing extension 30 of Jennings is not disposed "at an angle" relative to the main conveyor portion "for receiving materials from the first portion and propelling them off an outboard end of the cross-conveyor." The specification in Jennings makes it abundantly clear that wing extension 30 has only two positions, i.e., a lowered operative position and a raised transport position. In the raised transport position wing extension 30 is clearly inoperative and is not capable of "receiving materials from the first portion and propelling them off an outboard end of the cross-conveyor" as required by claim 9.

Accordingly, it is respectfully submitted that claim 9 is not anticipated by Jennings. Moreover, none of the other art of record shows or suggests the claimed invention. Therefore, it is respectfully submitted that claim 9 is in full condition for allowance.

Claims 10-16 depend directly and indirectly from allowable claim 9 and set forth further details of the invention not shown or suggested by the art of record. Accordingly, it is respectfully submitted that claims 10-16 are also in full condition for allowance.

Independent claim 18 presently stands rejected under 35 U.S.C. §103(a) as being unpatentable over Lohrentz 6,415,590 in view of Jennings of 5,231,826. The Office Action indicates "it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cross conveyor of Lohrentz with the extension conveyor of Jennings, in order to extend the range (outside the wheel) for depositing/providing a windrow."

It will be noted, however, that claim 18 has been amended to call for the cross-conveyor to include a second conveyor portion "projecting upwardly and outwardly from the first conveyor portion at an angle thereto for receiving materials from the first portion and propelling them off an outboard end of the cross-conveyor." As the examiner acknowledges, Lohrentz does not disclose a second conveyor. And while Jennings discloses a wing extension 30, such extension is not disposed "at an angle" relative to the first portion "for receiving materials from the first portion and propelling them off an outboard end of the cross-conveyor." As noted above, the only operative position of wing extension 30 is the "lowered operative position" in phantom lines in Fig. 1, the extension being inoperative in the raised transport position.

Accordingly, it is respectfully submitted that the rejection of claim 18 should be reconsidered and removed. In addition, since claims 20, 21, 23, and 27 depend directly and indirectly from allowable claim 18 and set forth further details of the invention not shown or suggested by the art or record, it is respectfully submitted that these dependent claims are also in full condition for allowance.

Independent method claim 28 presently stands rejected under 35 U.S.C. §102(b) as being anticipated by Lohrentz 6,415,590. The examiner takes the position that "As applied to claims 28-29, 32, 34, in view of the structure disclosed/taught by Lohrentz, the method of operating/using the device is inherent since it is the normal and logical manner in which the device is used." Applicants respectfully disagree.

Even if it were true that the machine in Lohrentz could be used to carry out the method of claim 28 (which Applicants deny), there is nothing in the disclosure of Lohrentz that shows or suggests actually using the machine in the claimed manner. In addition to the fact that Lohrentz

simply fails to disclose triple windrowing at all, it additionally fails to disclose several specific method steps of claim 28. For example, Lohrentz fails to show or suggest making a first harvesting pass that is "carried out at a location spaced inwardly from an edge of uncut standing crop materials so as to leave uncut standing crop materials along opposite sides of the mowed strip" as illustrated in Fig. 1a. Further, it fails to show or suggest making a second pass as shown in Fig. 1b and then a third pass as shown in Fig. 1c wherein the materials are directed into the mowed strip of the first pass "to form a third deposit of severed materials in the mowed strip in association with the first and second deposits." Although Lohrentz does disclose the idea of raising a cross-conveyor and allowing a stream of materials to pass beneath such raised conveyor, it certainly does not disclose or in any way suggests how a raisable cross-conveyor might be used in connection with a triple windrowing method.

Accordingly, it is respectfully submitted that claim 28 is not anticipated by Lohrentz. Indeed, it is respectfully submitted that claim 28 is allowable over the Lohrentz reference.

Furthermore, it is respectfully submitted that claims 29-33, which depend directly and indirectly from allowable claim 28 and set forth further details of the invention not shown or suggested by the art of record, are also in full condition for allowance.

Independent method claim 34 presently stands rejected under 35 U.S.C §102(b) as being clearly anticipated by Lohrentz 6,415,590. As with claim 28, the examiner takes the position that the subject matter of claim 34 is inherent in Lohrentz when that machine is utilized in its normal and logical manner. However, again, it is respectfully submitted that Lohrentz fails to disclose or suggest any triple windrowing method at all.

Indeed, at best Lohrentz merely discloses a double windrowing method. Even if it were true that the Lohrentz machine could somehow be used to carry out the triple windrowing method of claim 34, that is no basis for rejecting claim 34 because there is no showing or suggestion of actually using the Lohrentz machine in that way.

Therefore, it is respectfully submitted that the rejection of claim 34 should be removed and that this claim be passed to allowance.

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Reply to Office Action of January 19, 2005

In view of the above showing, it is respectfully submitted that all remaining claims in this application are in full condition for allowance. Forwarding of formal notice of such allowance is respectfully requested.

Enclosed herewith and made a part of this response is a One-month Petition for Extension of Time, together with the appropriate fee. Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

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